

§ 300.4

32 CFR Ch. I (7–1–14 Edition)

facsimile, or electronically. A FOIA request meeting these conditions, arriving at DLA's FOIA Requester Service Center in possession of the requested records, is considered perfected or properly received at which time the statutory time limit for response begins. In no case shall the statutory time limit for processing a perfected request begin later than ten business days after receipt by any of DLA's FOIA Request Service Centers.

(n) *Initial denial authority (IDA)*. By this regulation, the Director, DLA, delegates to Heads of DLA Components the authority to withhold information requested under the FOIA pursuant to one or more of the nine FOIA exemptions and to confirm that no records were located in response to a request. The designation of IDA may be further delegated by the Heads of DLA Components to their Deputies. DLA Components shall limit the number of IDAs appointed. In designating its IDAs, a DLA Component shall balance the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding to each request within the time limitations of the FOIA. IDAs may also deny a fee category claim by a requester, deny a request for expedited processing, deny a request for a waiver or reduction of fees, or review a fee estimate, although these determinations are usually made by the FOIA Officer.

(o) *Referral*. The process of transferring records found in response to a FOIA request to another DLA or DoD Component, or any Federal agency for review and direct response to the requester. This process is used when documents located during a search are found to have originated or there is a substantial interest in the record with another DLA or DoD Component, or Federal agency.

(p) *Requester category*. One of three categories that agencies place requesters in for the purpose of determining fees for search, review and duplication. The three categories are:

- (1) Commercial;
- (2) Non-commercial scientific or educational institutions or news media; and
- (3) All others.

§ 300.4 Policy.

DLA adopts and supplements the DoD FOIA Program policy and procedures codified at 32 CFR part 286, subpart A, General Provisions and subpart B, FOIA Reading Rooms and 32 CFR part 285.

(a) *General*. As a matter of policy, DLA shall make discretionary disclosures of exempt records or information whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court. The public has a right to information concerning the activities of its Government. DLA policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A DLA record requested by a member of the public who follows rules established herein shall be withheld only when it is exempt from mandatory public disclosure under the FOIA.

(b) *Customer Service*. Executive Order 13392, Improving Agency disclosure of Information, December 14, 2005, requires agencies to emphasize a new citizen-centered approach to the FOIA that is results-oriented. Because FOIA requesters are seeking a service from the Federal Government, all DLA Components shall respond courteously and professionally to FOIA requesters. Additionally, the Components shall provide the public with information about agency records that are already publicly available, as well as information about the status of a person's FOIA request and an estimated date on which DLA's Component will complete the request. Refer to Appendix A of this part for DLA FOIA Requester Service Center contact information.

(1) To meet the requirements of Executive Order 13392, each FOIA Requester Service Center shall have an internet Web site that serves to educate the public on the FOIA process. At a minimum, each Web site shall have the address, telephone number, facsimile number, and electronic mail address to which FOIA requests can be sent; a link to DoD's FOIA handbook; the

name and contact information of DLA's FOIA Officer and Public Liaison; and information on how a requester can obtain the status of a request. Additionally, each FOIA Requester Service Center Web site will have links to DLA's Headquarters FOIA/Privacy Web site reading room.

(2) [Reserved]

(c) *Creating a Record.* (1) There is no obligation to create nor compile a record to satisfy an FOIA request. A DLA activity, however, may compile a new record when doing so would result in a more useful response to the requester or be less burdensome to the activity provided the requester does not object. The cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with part 286, subpart F, of this title.

(2) A record must exist and be in the possession and control of DLA at the time the search begins to be considered subject to this part and the FOIA.

(3) When processing FOIA requests for electronic data, if DLA's Component has the capability to respond to the request, and the effort is reasonable and would be a business as usual approach, then the request should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal business as usual approach. For example: Processing a request that would cause a significant interference with the operation of DLA's Component's automated system or require a significant amount of programming effort.

(d) *Consultations and Referrals.* The rules published in part 32 CFR part 286, subpart A, §§286.4(i) and 286.22(e), Policy, apply to this rule.

(e) *Forms.* This part authorizes the use of forms developed by DoD and DLA for the express use of the FOIA Program. Refer to www.dla.mil for a list of all forms prescribed by this part.

Subpart B—Exemptions

§ 300.5 General.

Refer to the DoD FOIA Program regulations codified at 32 CFR part 286, subpart C, Exemptions.

Subpart C—FOIA Request Processing

§ 300.6 General.

DLA adopts and supplements the DoD FOIA Program regulations codified at 32 CFR part 286, subpart E, Release and Processing Procedures.

(a) *Requests from the public.* (1) Individuals seeking DLA information should address their FOIA requests to one of the FOIA Requester Service Center addresses listed in Appendix A of this part.

(2) When personally identifying information in a record is requested by the subject of the record or the subject's representative, and the information is contained within a Privacy Act system of records, the request will be processed under both the FOIA and the Privacy Act. Due to the dual nature of the processing, the FOIA time limits will be used. DLA Components must comply with the provisions of 32 CFR 310.17(c) to confirm the identity of the requester.

(b) [Reserved]

§ 300.7 FOIA request processing procedures.

(a) *Receipt and Control.* Requests received after 5:00 p.m. EST will be considered received the following business day. Upon receipt of a request for records, the FOIA Officer must:

(1) Open a file in DLA's specified control system designed to ensure accountability and compliance with the FOIA. The control system will include the data elements needed to compile the statistics required in the annual Department of Justice FOIA report or other reports required by another authority. Each request shall automatically be assigned a unique tracking number.

(2) Screen the request for defects in the description, the requester category, the fee declaration, and full postal address. The FOIA Officer will notify the